

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:21-cv-00062-MR**

MATTHEW BUDNEY,

Plaintiff,

vs.

FNU HONEYCUTT, et al.,

Defendants.

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ORDER

THIS MATTER is before the Court *sua sponte*.

The pro se incarcerated Plaintiff filed this civil rights action pursuant to 42 U.S.C. § 1983 addressing incidents that allegedly occurred at the Avery-Mitchell Correctional Institution. On August 12, 2022, the Plaintiff filed a “Change of Address Notification” indicating that he expected to be transferred from the Pender County Jail (“PCJ”) to the Spartanburg County Jail (“SCJ”) in Spartanburg, South Carolina, in the near future. [Doc. 41]. On September 1, 2022, mail addressed to the Plaintiff at the PCJ was returned as undeliverable. [Doc. 45 (envelope stamped “Return to Sender – No Longer at the Facility” and “Return to Sender – Refused – Unable to Forward”)]. Telephonic inquiry to PCJ indicated that the Plaintiff was transferred to SCJ on August 18, 2022. [See Sept. 8, 2022 Staff Note]. On

September 6, 2022, mail addressed to the Plaintiff at SJC was returned as undeliverable. [Doc. 46 (envelope stamped “Return to Sender – Not Deliverable as Addressed – Unable to Forward,” with a handwritten note “not here”)]. Telephonic inquiry to SCJ revealed that the Plaintiff was released on bond on August 24, 2022, and SCJ provided the Court with a forwarding address. [See Sept. 8, 2022 Staff Note]. The Plaintiff has not notified this Court of his new address or otherwise indicated that he intends to proceed with this action.

The Plaintiff was notified upon commencing this action that it is “Plaintiff’s responsibility to keep the Court advised of his/her current address at all times” and “[i]f Plaintiff’s address changes and no Notice [of Change of Address] is promptly filed with the Clerk of Court, this case may be dismissed for lack of prosecution.” [Doc. 3 at 2].

It appears that Plaintiff may have abandoned this action. Plaintiff shall, within **ten (10) days** of this Order, update his address of record and inform the Court whether he intends to proceed with this action. Failure to comply with this Order will result in dismissal of this action without prejudice and this case’s closure without further notice.

IT IS, THEREFORE, ORDERED that the Plaintiff **shall have ten (10) days from the date of this Order** in which to update his address of record

and inform the Court whether he intends to proceed with this action. If Plaintiff fails to do so, this case will be dismissed without prejudice and closed without further notice as to him.

The Clerk is respectfully instructed to mail a copy of this Order to the Plaintiff's address of record, and to the forwarding address provided by SCJ on September 8, 2022.

IT IS SO ORDERED.

Signed: September 26, 2022



Martin Reidinger
Chief United States District Judge

